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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,015	11/26/2003	Alexei A. Erchak	L0655.70027US01	7556

72576 7590 11/04/2008  
LUMINUS DEVICES, INC.  
C/O WOLF, GREENFIELD & SACKS, P.C.  
600 ATLANTIC AVENUE  
BOSTON, MA 02210-2206

EXAMINER
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WILLIAMS, JOSEPH L

ART UNIT	PAPER NUMBER
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2889

MAIL DATE	DELIVERY MODE
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11/04/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/724,015	<b>Applicant(s)</b> ERCHAK, ALEXEI A.	
	<b>Examiner</b> Joseph L. Williams	<b>Art Unit</b> 2889	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 October 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 27-54, 56, 60, 63-65, 67-91 and 93-106 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 27-54, 56, 60, 63-65, 67-91 and 93-106 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

The response filed on 10/23/2008 has been entered and overcomes the rejections to the claims.

#### ***Specification***

1. Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.
3. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

***Allowable Subject Matter***

1. Claims 27-54, 56, 60, 63-65, 67-91, and 93-106 are allowed.

The following is an examiner's statement of reasons for allowance:

Regarding claim 27, the references of the Prior Art of record fails to teach or suggest the combination of the limitations as set forth in claim 27, and specifically comprising the limitation of a light emitting device where the extraction efficiency is independent the length of the device and a first surface of the device includes a pattern of holes with an ideal lattice constant and a detuning parameter greater than zero, along with the rest of the limitations of the claim.

Regarding claim 56, the references of the Prior Art of record fails to teach or suggest the combination of the limitations as set forth in claim 56, and specifically comprising the limitation of a light emitting device wherein the first layer comprises a semiconductor material and a surface of the first layer has a dielectric function that varies spatially according to a nonperiodic-pattern comprising a plurality of non-concentric holes, a majority of the non-periodic pattern having order, along with the rest of the limitations of the claim.

Regarding claim 75, the references of the Prior Art of record fails to teach or suggest the combination of the limitations as set forth in claim 75, and specifically comprising the limitation of a light emitting device wherein the first layer comprises a semiconductor material and a surface of the first layer has a dielectric function that varies spatially according to a nonperiodic pattern comprising holes being devoid of

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material within a perimeter defined by the first layer, a majority of the nonperiodic pattern having order, along with the rest of the limitations of the claim.

Regarding claim 84, the references of the Prior Art of record fails to teach or suggest the combination of the limitations as set forth in claim 84, and specifically comprising the limitation of a light emitting device wherein the first layer comprises a semiconductor material and a surface of the first layer has a dielectric function that varies spatially according to a nonperiodic-pattern comprising a plurality of non-concentric holes; and wherein the non-periodic pattern is configured so that light emerging from the light-emitting device via the first surface is more collimated than a lambertian distribution of light, along with the rest of the limitations of the claim.

Regarding claim 93, the references of the Prior Art of record fails to teach or suggest the combination of the limitations as set forth in claim 93, and specifically comprising the limitation of a light emitting device wherein the first layer comprises a semiconductor material and a surface of the first layer has a dielectric function that varies spatially according to a nonperiodic pattern comprising features, a majority of the features having substantially the same size and a majority of the nearest neighbor distances between features being substantially the same, along with the rest of the limitations of the claim.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

2. This application is in condition for allowance except for the following formal matters:

Please see the above action.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 25 USPQ 74, 453 O.G. 213, (Comm'r Pat. 1935).

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph L. Williams whose telephone number is (571) 272-2465. The examiner can normally be reached on M-F (6:30 AM-3:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Minh-Toan Ton can be reached on (571) 272-2303. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Joseph L. Williams/  
Primary Examiner, Art Unit 2889